IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH

S.B. CRIMINAL MISC. PETITION NO.1202/06

ING Vysya Bank Ltd. & Anr.

Versus

State & Anr.

DATE OF ORDER :: 13/11/2007

HON'BLE MR. JUSTICE AJAY RASTOGI

Mr. Ashok Mehta, for petitioner
Mr. Arun Sharma, Public Prosecutor for State

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Instant petition has been filed assailing order dated 24th February, 2005 whereby learned trial Judge took cognizance against accused-petitioner for offence u/s.138 of Negotiable Instruments Act and the revision petition preferred against the said order was also rejected vide order dated 7th April, 2006.

Basic issue, which counsel for petitioner has tried to convince this court, is that demand draft/pay order in no manner can be compared to that of cheque and even it has been dishonoured, provisions of Negotiable Instruments Act are not applicable. As such, the very cognizance taken against accused-petitioner for offence u/s.138 on the premise that pay order has not been honoured by the Bank, is not legally sustainable.

This question has been decided by the apex court in **Punjab and Sind Bank Vs. Vinkar Sahakari Bank Ltd. [2002 Crl.L.J.-93]** wherein it has been observed that pay order is a cheque within the meaning of Section 138 of the Act and if it has been dishonoured, cognizance can be taken against accused for offence u/s.138 of the Act. In view of judgment in **Punjab and Sind Bank Vs. Vinkar Sahakari Bank Ltd.** [supra], the question does not remain res integra to be examined by this court.

Consequently, in view of judgment in **Punjab and Sind Bank Vs. Vinkar Sahakari Bank Ltd.** [supra], the present misc. petition has no force and the same is, accordingly, dismissed.

[AJAY RASTOGI],J.